



# National Labor Relations Board

## Weekly Summary of NLRB Cases

Division of Information

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CASES SUMMARIZED  
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*Angotti Healthcare Systems, Inc. d/b/a St. Joseph Ambulance Service* (20-CA-32436, 20-RC-18009; 346 NLRB No. 110) San Raphael, CA May 8, 2006. The Board affirmed the findings of the administrative law judge and held that the Respondent violated Section 8(a)(1) of the Act by threatening its employees with more onerous working conditions if they selected Emergency Medical Technicians and Paramedics, SEIU-NAGE as their collective-bargaining representative and by interrogating its employees regarding how they intended to vote in the NLRB-conducted representation election. [\[HTML\]](#) [\[PDF\]](#)

As the Union received a majority of the valid votes cast, the Board certified the Union as the exclusive collective-bargaining representative of the employees in the appropriate unit. The tally of ballots for the election of Feb. 11, 2005 showed 11 for and 9 against, the Union, with 6 determinative challenged ballots. The Acting Regional Director sustained the challenges to two ballots and the Board approved the judge's recommendation to sustain the challenges to the remaining four ballots.

(Members Liebman, Kirsanow, and Walsh participated.)

Charge filed by Emergency Medical Technicians and Paramedics, SEIU-NAGE; complaint alleged violation of Section 8(a)(1). Hearing at San Francisco on Aug. 16, 2005. Adm. Law Judge Burton Litvack issued his decision Dec. 29, 2005.

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*Beverly Health and Rehabilitation Services, Inc., Its Operating Regional Offices, wholly-owned subsidiaries, et al.* (6-CA-28276, et al.; 346 NLRB No. 111) Monroeville, PA, et al. May 8, 2006. The Board affirmed in part, and dismissed in part, the administrative law judge's findings that the Respondent violated Section 8(a)(1), (3), and (5) of the Act. The Respondent's misconduct included threatening applicants that they would not be hired unless they agreed in advance to cross a picket line in the event of a strike, discharging employees for engaging in protected, concerted activities, refusing to recognize and bargain with Service Employees District 1199P as the exclusive representative of the licensed practical nurses working at its Mt. Lebanon, PA facility, refusing to provide the Union with relevant information, and polling employees to determine union support where there were unremedied unfair labor practices. [\[HTML\]](#) [\[PDF\]](#)

Among the reversals of the judge, the Board dismissed allegations that security guards at the Respondent's Haida Manor facility unlawfully videotaped former strikers as they returned to work, that the Respondent discharged Jean Haver because of her union activities, and that the Respondent unlawfully deducted health insurance premiums for the three days that the employees were out on strike without first giving notice to and bargaining with the Union. Contrary to the judge, the Board found that the Respondent unlawfully implemented a new timekeeping system at its Lancaster facility as the Respondent did not give notice to or bargain with the Union over the change.

Because this is the fifth in a series of cases involving the Respondent in which there is evidence that corporate officials played prominent roles in directing, approving, or knowingly failing to prevent the unlawful actions that occurred at individual facilities, the Board deemed that a corporatewide cease-and-desist order and notice posting is appropriate. It issued a corporatewide remedial order addressing all of the violations found and required the posting of two versions of the notice to employees—one to be posted at each Pennsylvania facility involved in this proceeding and at those of the Respondent's separate offices that oversee those facilities, and one to be posted at each of the Respondent's other facilities and offices nationwide.

The charges in this proceeding are based on the Respondent's conduct at 19 of its Pennsylvania facilities from late 1995 through early 1997. The 19 facilities were also the subject of litigation in *Beverly Health & Rehabilitation Services*, 335 NLRB 635 (2001) (*Beverly IV*). The Respondent's conduct that gave rise to the charges here occurred within approximately the same time period as the conduct that gave rise to the allegations in *Beverly IV*. The General Counsel's motion to consolidate the cases at that time was denied and the instant charges were litigated in a separate proceeding.

*Beverly IV* involved the Respondent's refusal to reinstate strikers who had participated in a 3-day strike at 15 of the Respondent's facilities. Prior to the April strike, on March 14 and 15, 1996, the Union notified the Respondent that the Union would engage in a strike on March 29. Two days before the strike deadline, the Union sent a second notice that extended the deadline to April 1. Relying on *Greater New Orleans Artificial Kidney Center*, 240 NLRB 432 (1979), the Board concluded that the extension of the strike notice was substantially in compliance with Section 8(g), that the strike was an unfair labor practice strike, and that the Respondent violated Section 8(a)(3) and (1) of the Act by refusing to promptly reinstate all employees who had participated in the strike.

Subsequently, the Respondent appealed the Board's decision to the U.S. Court of Appeals for the District of Columbia Circuit. 317 F.3d 316 (D.C. Cir. 2003). Contrary to the Board's conclusions, the court held that the strike notice did not comply with the requirements set forth in Section 8(g) and that the strike was therefore not protected activity. Accordingly, the court found that the Respondent had no duty to reinstate any of the striking workers, and refused to enforce the Board's Order. The Board accepted the court's decision as controlling here and found that the Respondent had no obligation to reinstate the employees and its failure to do so did not violate the Act.

(Chairman Battista and Members Liebman and Schaumber participated.)

Charges filed by SEIU District 1199P, Local 585, and Local 668; complaint alleged violation of Section 8(a)(1), (3), and (5). Hearing at Franklin, Harrisburg, Johnstown, Reading, and Pittsburgh on various dates between July 28, 1997, and Oct. 22, 1998. Adm. Law Judge Irwin H. Socoloff issued his decision March 23, 2000.

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**LIST OF DECISIONS OF ADMINISTRATIVE LAW JUDGES**

*Diamond Properties, as successor to Colin Service Systems, Inc.* (SEIU Local 32BJ) New York, NY May 11, 2006. 2-CA-36783; JD(NY)-20-06, Judge Steven Fish.

*Hargrove, Inc.* (Theatrical Stage Employees Local 39) Lanham, MD May 11, 2006. 15-CA-16086; JD(ATL)-20-06, Judge William N. Cates.

*Third Garage, LLC* (Teamsters Local 657) Harlingen, TX May 11, 2006. 16-CA-24373; JD(ATL)-21-06, Judge George Carson II.

*Agri Processor Co., Inc.* (Food & Commercial Workers Local 342) Brooklyn, NY May 10, 2006. 29-CA-27396; JD(NY)-18-06, Judge Raymond P. Green.

*United Parcel Service* (an Individual) Seattle, WA May 12, 2006. 19-CA-30041; JD(SF)-22-06, Judge Gerald A. Wacknov.

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**LIST OF UNPUBLISHED BOARD DECISIONS AND ORDERS  
IN REPRESENTATION CASES**

*(In the following cases, the Board considered exceptions to and  
adopted Reports of Regional Directors or Hearing Officers)*

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

*Brooks Ambulance, Inc.*, Waupun, WI, 30-RC-6623, May 11, 2006 (Chairman Battista and Members Liebman and Walsh)

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*(In the following cases, the Board adopted Reports of  
Regional Directors or Hearing Officers in the absence of exceptions)*

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

*Citrus Valley Medical Center, Inc.*, West Covina, CA, 21-RC-20864, May 10, 2006  
(Chairman Battista and Members Kirsanow and Walsh)

**DECISION AND CERTIFICATION OF RESULTS OF ELECTION**

*Bunge North America, Inc.*, Shawneetown, IL, 14-RD-1858, 14-RM-740, May 10, 2006  
(Chairman Battista and Members Kirsanow and Walsh)

**DECISION AND DIRECTION [that Regional Director open  
and count challenged ballots]**

*Handyfat Trading, Inc.*, Brooklyn, NY, 29-RC-11279, May 10, 2006 (Chairman Battista and  
Members Kirsanow and Walsh)

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***(In the following cases, the Board granted requests for review  
of Decisions and Directions of Elections (D&DE) and  
Decisions and Orders (D&O) of Regional Directors)***

*Covenant Aviation Security, LLC*, South San Francisco, CA, 20-UD-445, May 10, 2006  
(Chairman Battista and Member Kirsanow; Member Walsh dissenting)

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***(In the following cases, the Board denied requests for review  
of Decisions and Directions of Elections (D&DE) and  
Decisions and Orders (D&O) of Regional Directors)***

*United States Cold Storage, Inc.*, LaVergne, TN, 26-RD-1131, May 10, 2006 (Chairman Battista  
and Members Kirsanow and Walsh)

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